

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

Darrell D. Jones, <i>et al.</i> ,	:	
	:	No. 1:09-cv-708
Plaintiffs,	:	
	:	Chief Judge Susan J. Dlott
v.	:	
	:	ORDER GRANTING IN PART AND
Broyhill Furniture Industries, Inc.,	:	DENYING IN PART MOTION FOR
	:	SUMMARY JUDGMENT
	:	
Defendant.	:	

This matter is before the Court on Defendant's Motion for Summary Judgment (doc. 26). Plaintiffs Darrell Jones and George Riegle worked as sales representatives for Defendant Broyhill Furniture Industries, Inc. for more than thirty years each until February 2009. Plaintiffs filed this suit against Broyhill asserting claims for breach of contract and various common law torts contending that Broyhill owes them commissions for the sale of merchandise to Big Lots. The Motion for Summary Judgment is ripe for adjudication. The Court heard oral argument on this matter on February 8, 2011.

Broyhill seeks summary judgment on all claims stated in Plaintiffs' First Amended Complaint. Plaintiffs do not contest the issuance of summary judgment to Broyhill on their tortious interference and breach of the covenant of good faith and fair dealing claims. (Doc. 27 at 1 n.1.) However, they assert that material issues of fact remain in dispute as to their breach of contract, fraudulent misrepresentation, and unjust enrichment claims. The Court agrees. Material facts in dispute include the classification of the Big Lots account, whether Plaintiffs were entitled to a sales commission or to a service commission, if either, on the Big Lots account, and whether Plaintiffs were entitled to a 1% bonus commission in 2007. Therefore,

Broyhill has not established that it is entitled to summary judgment on the contract, fraud, and unjust enrichment claims.

Accordingly, Defendant's Motion for Summary Judgment (doc. 26) is **GRANTED IN PART AND DENIED IN PART**. Summary judgment is granted to Broyhill on the tortious interference and breach of the covenant of good faith and fair dealing claims only. The case will proceed to trial on the breach of contract, fraudulent misrepresentation, and unjust enrichment claims.

IT IS SO ORDERED.

s/Susan J. Dlott
Chief Judge Susan J. Dlott
United States District Court